

REMARKS

Upon entry of the above amendments, claims 1-5, 13-18, 23-45, 52-54, 56, 57 and 62-68 will be pending. Claims 1-5, 13, 17, 18, 26, 27, 31, 36, 42, 44, 56, 57 and 65 will be amended. Claims 19, 25, 58, 64, and 69-79 will be canceled. Applicants reserve the right to pursue subject matter no longer or not yet claimed in this or a related application. Claims 1 and 36 have been amended to claim the invention with greater particularity. These amendments are introduced for the sole purpose of facilitating prosecution and are not related to reasons of patentability. Applicants submit that the amendments do not require a new search or raise new issues for consideration because they merely address issues raised by the Examiner in the Office Action or define Applicants' invention more clearly. They add no new matter and are fully supported by the specification and claims as originally filed. Accordingly, it is submitted that the amendments place the claims in condition for allowance or in better condition for appeal by reducing the number of issues for consideration on appeal. Therefore, entry of the amendments at this stage is proper.

Specifically, claim 1 and 36 have been amended to clarify that the inhibition of cell growth or cell death enhancement is due to the photoactivation of a photooxidizing agent. See page 1, lines 12-19 for support.

Rejections Under 35 U.S.C. § 102 and 103

The rejections of claims 1, 13-18, 32-33, 36-37, and 52-54 under 35 U.S.C. § 102(e) as allegedly anticipated by Haselton, III (U.S. Pat. No. 6,242,258) and claims 2-5, 23-24, 34-35, 38-39, 41-45, and 62-63 under 35 U.S.C. § 103(a) as allegedly unpatentable over Haselton in view of Zewert are respectfully traversed. Applicants respectfully disagree with the characterization of the cited art in the Office action. However, to expedite prosecution and advance the case to allowance Applicant's have amended the claims in accordance with the Examiner's suggestion in the latest Office action. The amended claims are now directed to

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photooxidizing agents, which the Examiner indicated would be allowable if written in independent form. Applicants therefore contend that these amendments render these rejections moot and respectfully request the rejections be withdrawn.

CONCLUSION

Applicants believe that all claims are in condition for allowance and respectfully request Notice thereof. Should any issues or questions remain, the Examiner is encouraged to telephone the undersigned at 858.350.9690 so that they may be promptly resolved without the need for an additional formal action and response thereto.

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Respectfully submitted,

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